



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/891,773

06/26/2001

Girish V. Prabhu

80099SLP

2700

70523

7590

06/29/2011

Carestream Health, Inc.
ATTN: Patent Legal Staff
150 Verona Street
Rochester, NY 14608

EXAMINER

COHEN, LEE S

ART UNIT

PAPER NUMBER

3739

MAIL DATE

DELIVERY MODE

06/29/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GIRISH V. PRABHU, CECELIA M. HORWITZ,
PAIGE MILLER, RICHARD N. BLAZEY, ELENA A.
FEDOROVSKAYA, SWATEE N. SURVE, DAVID L.
PATTON, LAURIE SCHAEFER, JOHN R. FREDLUND,
JOSE V. MIR, and PETER A. PARKS

Appeal 2009-012392
Application 09/891,773
Technology Center 3700

Before: JENNIFER D. BAHR, STEVEN D.A. MCCARTHY, and KEN B.
BARRETT, *Administrative Patent Judges*.

BAHR, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Girish V. Prabhu et al. (Appellants) appeal under 35 U.S.C. § 134 from the Examiner's rejection of claims 1-17 under 35 U.S.C. § 102(e) as being anticipated by Korenman (US 6,026,322, iss. Feb. 15, 2000). We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

The Invention

The claims are directed to an apparatus for the management of a physiological and/or psychological state of an individual using images. Spec. 1:13-17. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. Apparatus for facilitating management by an individual of a physiological and/or psychological state of said individual using images comprising:
 - a display for a set of images allowing an individual to show a set of images chosen by the individual to one's self wherein said set of images are based on a personalized image profile based on cognitive decisions relating to connectedness, valence and arousal and on biometric analysis; and
 - a device for allowing said individual to choose images from said set of images which provide a preferred response for said individual, wherein said chosen images provide common measurable physiological response characteristics which define a personalized image response profile for said individual.

OPINION

In contesting the rejection, Appellants have argued in favor of the patentability of independent claims 1, 3, and 12 together as a group (*see* App. Br. 5-6), and presented separate arguments for independent claim 6 (*see* App. Br. 7). Appellants have grouped the dependent claims with the independent claim from which they depend (*see* App. Br. 7). Thus, in accordance with 37 C.F.R. § 41.37(c)(1)(vii), we select claims 1 and 6 as representative, with claims 2-5 and 12-17 standing or falling with claim 1 and claims 7-11 standing or falling with claim 6.

Claims 1-5 and 12-17

The Examiner found that Korenman discloses, in column 3, lines 47-51, and from column 4, line 58 to column 5, line 34, an apparatus as called for in claim 1. Ans. 3-4.

Korenman describes a computer system designed to teach behavioral skills to a user in order to affect and thus control the state of a physiological condition of the user. Col. 3, ll. 64-67. In relevant part, the portions of Korenman referenced by the Examiner disclose a computer system comprising a display (col. 4, l. 59); a user interface comprising, for example, a mouse, keypad, or keyboard (col. 3, l. 55-57; col. 4, ll. 58-61) via which the user can select options from a menu (informational material, text, graphics, type, location, and severity of pain), which selections indicate user preferences or customized profiles for which images are to be displayed (col. 4, l. 59 to col. 5, l. 10); a biometric sensor, such as a galvanic skin resistance (GSR) or electrodermal activity (EDA) sensor, for monitoring a physiological parameter of the user (col. 3, ll. 58-59; col. 5, ll. 13-14); and a program for selecting images for display based upon the options selected by

the user via the user interface (col. 5, ll. 2-10) and for altering the images displayed in response to signals from the biometric sensor (col. 5, ll. 11-35).

We agree with the Examiner that the display described by Korenman is fully capable of displaying images, including images chosen in the manner alluded to in claim 1. Ans. 4. The Examiner correctly pointed out that the set of images referred to in claim 1 are not positively recited as part of the claimed invention. Ans. 3-4. Moreover, the computer program described by Korenman does in fact permit the user to select the images displayed on the screen based on a personalized image profile generated in response to conscious inputs from the user via the user interface and in response to the biometric analysis of signals from the biometric sensor. Accordingly, the Examiner correctly found that Korenman's apparatus comprises a display and a device as called for in claim 1.

Appellants argue that Korenman's images are chosen based on the physiological condition being treated, and thus are not chosen by the user. App. Br. 5-6. We do not agree with Appellants. While Korenman's program displays images directed to the physiological condition of the user, the program selects those images based on options selected by the user, either consciously or involuntarily. Thus, we find that the images are selected by the user.

Appellants additionally argue that Korenman's images are not based on cognitive decisions relating to connectedness, valence and arousal and on biometric analysis. App. Br. 6. This argument is not persuasive, as claim 1 does not positively recite the images. Moreover, Appellants' characterization of Korenman is factually incorrect. For the reasons discussed below, we find that Korenman's apparatus is in fact capable of selecting the images based on such cognitive decisions.

Appellants use the term “valence” to denote the “degree of perceived pleasantness of an image.” Spec. 2:19-20. Appellants disclose that “valence” is reflected by heart rate acceleration, and perceived arousal is correlated with the magnitude of the skin conductance response. Spec. 2:16-20.

As discussed above, Korenman’s program selects images to be displayed on the screen based upon conscious selections made by the user and physiologic responses (which include responses generated in response to the images displayed) detected by the biometric sensor. Further, Korenman discloses biometric sensors such as GSR, EDA, brain or cardiac electrical signals (EEG and ECG), heart or pulse rate, and skin temperature sensors for monitoring the user’s responses. Col. 6, ll. 50-54. Accordingly, Korenman’s program is fully capable of selecting the images based on profiles based on cognitive decisions relating to connectedness, valence, and arousal as measured by GSR, EDA, heart or pulse rate sensors, or the like.

Appellants also argue that Korenman’s images change in appearance, in contrast to the images of the present invention, which do not change in appearance. App. Br. 6. This argument is not commensurate with the scope of claim 1, which does not exclude images which change.

We sustain the rejection of claim 1 and of claims 2-5 and 12-17, which fall with claim 1.

Claims 6-11

Appellants argue that Korenman “does not teach a device for creating a personalized image response profile for the individual and a selector for selecting a set of images from an image library which include characteristics that match the preferred characteristics of the personalized preferred image response profile,” as called for in claim 6. App. Br. 7. We do not agree with

Appeal 2009-012392
Application 09/891,773

Appellants. As discussed above, Korenman creates a personalized profile for the user based on options consciously selected by the user. Col. 4, l. 59 to col. 5, l. 2. Korenman then selects images (e.g., pictorial images of the portion of the body in which the user indicates pain or discomfort) which include characteristics that match characteristics of the profile. Col. 5, ll. 2-10. Korenman monitors one or more physiologic parameters to measure the degree of relaxation exhibited by the user. Col. 5, ll. 11-15. Korenman's program uses these additional personalized responses to control the screen display, i.e., to select the images to be displayed on the screen. Col. 5, ll. 11-27.

We sustain the rejection of claim 6 and of claims 7-11, which fall with claim 6. *See* App. Br. 7; 37 C.F.R. § 41.37(c)(1)(vii).

DECISION

For the above reasons, the Examiner's decision is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

hh